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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,505	02/08/2002	Ingrid Henriksen	NIDN-10439	8899

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AMERSHAM HEALTH  
IP DEPARTMENT  
101 CARNEGIE CENTER  
PRINCETON, NJ 08540-6231

EXAMINER
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SHARAREH, SHAHNAM J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,505

Applicant(s)

HENRIKSEN ET AL.

Examiner

Shahnam Sharareh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-9 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) 8,9 and 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7,11-12, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 20, 2004 has been entered.

Any rejection that is not addressed in this Office Action is considered withdrawn in view of the new grounds of rejection.

Claims 1, 3, 5-9, 12-19 are pending. Claims 8-9, 13-17 stand withdrawn. Claims 1, 3, 5-7, 11-12, 18-19 are under consideration.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 3, 5-7, 11-12, 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Unger US Patent 6,033,645.

Unger discloses methods of administering a gaseous contrast agent comprising administering the contrast agent and a flushing agent from two different vessels into tubing that enters an upper extremity of a patient. (see figures 1-2; abstract, col 6, line 49-col 7, line 20; col 53, lines 35-67). The rates of infusion of Unger fall within the scope of the instant limitation of claim 1, "controllably," because it falls within the ranges that are described in this specification (see instant specification at page 6, also see Unger col 64, line 20-28). Unger claims delivery of his contrast agent in a continuous infusion. (col 64, lines 20-29). The rate of infusion for the contrast medium of Unger also falls within the limitations of the instant claim 18, because Unger teaches an infusion rate for his contrast agent over a period of about 10 seconds to 1 minute. Such rate of infusion is viewed to fall within the scope of the claim 18 limitations of "up to one hours." (col 52, lines 25-67).

The position of the syringe carrying the contrast agent in Unger is vertical (see figure 1). Unger uses the piston of the syringe as the driver (see element 18 of figure 1).

The flushing agent of Unger is normal saline (col 49, lines 53-55; col 57, line 9). The flushing step of Unger allows complete transport of the gaseous contrast agent into the bloodstream; thus, at least a portion of the contrast agent of Unger is mixed with the flushing agent of Unger prior to administration into the subject. (col 47, lines 60-col 48,

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line 10). Unger further explicitly teaches flush rates that fall within the scope of the instant claim 19 (col 48, line 64-col 49, line 25).

Unger claims administration of sulfur hexafluoride and perfluorocarbon filled vesicles such as perflurobutane as his contrast agent (see examples, also col 57, lines 9-21). The vesicles of Unger include albumin-stabilized microbubbles (see col 35, line53-col 36, line 30). Thus, limitations of claims 5-7, 11-12 are also met.

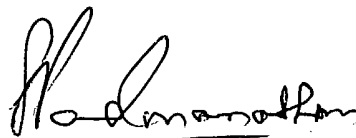
Accordingly, Unger anticipates the instantly claimed invention because it teaches all elements of the instant claims.

### ***Conclusion***

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahnam Sharareh whose telephone number is 571-272-0630. The examiner can normally be reached on 8:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, PhD can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



**SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER**

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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